



TO: Chief Elected Officials  
Grant Recipients  
WIB Directors  
Fiscal Agents

FROM: Alan D. Degner  
Commissioner

DATE: February 2, 2004

SUBJ: DWD Policy:2003-24  
Procurement and Prior Approval Policy for Grantees

RE: All Federal Funds Granted by the Department of Workforce Development

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Joseph E. Kernan, Governor  
Alan D. Degner, Commissioner

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**Purpose:**

To provide policy and guidelines regarding procurement of services and goods and prior approval requirements for all Federal funds granted by the Department of Workforce Development (DWD).

**Rescissions:**

DWD Communication #99-27 (Procurement and Prior Approval Policy for Grantees)

**Content:**

**I. Procurement of Goods and Services**

All grantees of the Department of Workforce Development (DWD) and each provider receiving federal funds shall comply with this policy and the appropriate Office of Management and Budget (OMB) circulars and related regulations when procuring goods or services. All procurement transactions must be conducted in a manner that provides full and open competition consistent with these standards.

Applicable cost principles and administrative rules are listed below.

**Cost Principles**

- OMB Circular A-21: Cost Principles for Educational Institutions
- OMB Circular A-87: Cost Principles for State, Local and Indian Tribal Govts

- OMB Circular A-122: Cost Principles for Non-Profit Organizations
- 48 CFR Chapter 1, Part 31 Contract Cost Principles and Procedures (Commercial Organizations)

### Administrative Requirements

- 29 CFR Part 95 Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments, and International Organizations
- 29 CFR Part 97 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

Please note that DWD is no longer accepting letters from grantees that provide assurances that their procurement systems comply with the procurement standards of applicable Uniform Administrative Requirements.

### Procurement Plans

Grantees must establish written procurement procedures and have a procurement plan. The procedures outlined in the procurement plan should conform to the standards of one of the following applicable regulations:

- 29CFR97.36(b-i) and 34CFR80.36(b-i): States/local governments; or
- 29CFR95.40-48 : Non- Profit organizations; or
- 34CFR74.40-48: Institutions of Higher Education

### **Definitions**

29 CFR 99.210 provides a distinction between vendors and subrecipients. The U.S. Department of Labor's One-Stop Comprehensive Financial Management Technical Assistance Guide also provides the following guidance.

Subrecipient: A subrecipient is a legal entity to which a subaward of Federal funds is made and that is accountable to the recipient for the use of the funds provided. When the organization performs the following activities, a Federal award to a subrecipient is indicated:

- Determines eligibility for the Federally funded program
- Has its performance measured against the objectives of the Federal program
- Has responsibility for programmatic decision-making
- Has responsibility for adherence to applicable Federal program compliance requirements (for example, the regulations)
- Uses the Federal funds to carry out a program of the organization as opposed to providing goods or services for a program.

Vendor: A vendor is a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. The following activities are indicative of a vendor relationship with an organization:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program
- Is not subject to the Federal compliance requirements of the program.

### **WIA Only:**

#### Individual Training Accounts

DWD Communication 98-62, issued May 17, 1999, provides policy concerning the payment of training expenses to eligible training providers funded through the Workforce Investment Act. Grantees are reminded that all training services, as defined in WIA 134 (d) 4, (except for on-the-job training and customized training, insufficient numbers of approved training providers, and special populations) must be provided through the use of Individual Training Accounts (ITAs).

#### Customized Training

DWD Communication 99-10, issued September 20, 1999, provides policy concerning customized training. Grantees should follow the procurement rules of the Uniform Administrative Requirements applicable for their agency when contracting for customized training since small purchase threshold guidelines may apply.

#### On-the-Job Training (OJT)

DWD Communication 99-10, issued September 20, 1999, provides policy concerning On-the-Job Training. No additional procurement rules apply to On-the-Job Training

contracts.

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### Adult Basic Education (ABE) and General Educational Development (GED)

The purchase of an ABE or GED class for an individual is considered a small purchase.

As such, price or rate quotations should be obtained from an adequate number of qualified sources. This type of purchase does not require a Request for Proposal or other formal solicitation. In order to make an informed choice, grantees should:

- Identify available providers of the desired training;
- Determine which of these providers meet the grantee's minimum standards for the desired training; and
- Obtain and record price or rate quotations from the qualified providers.

### Intensive Services

Per WIA 134(d)(3)(C)(vi), intensive services may include short-term prevocational services.

Per WIA 134(d)(3)(B)(ii), intensive services may be provided by the one-stop delivery system through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

Contracts for these services may be accomplished by competitive procurement or by individual referral agreement with its approved providers, as required by the local board.

### Procurement Solicitations Involving Multiple WIBs

There may be instances when more than one WIB may want to enter into one solicitation for services. DWD should be contacted prior to such solicitation only to discuss any compatibility issues with current or future systems that may occur. WIBs must be a part of a group solicitation from the beginning and cannot procure at a later time based upon another entity's competitive solicitation process.

### Small Business/Minority-owned Firms/Women's Business Enterprises/Labor Surplus Area Firms

Grantees are reminded that they and their subgrantees must take all necessary affirmative action steps to utilize small business, minority-owned firms, women's business enterprises, and labor surplus area firms, whenever possible, as required by applicable circulars or rules.

## **II. Prior Approval Requests**

### Sole Source Procurements

Effective immediately, grantees must receive prior approval from DWD for all services for \$10,000 or greater of DWD funds that are to be procured without competition (sole source). While noncompetitive procurements under \$10,000 do not require prior approval, grantees must still keep documentation on file that explains why the services were procured without competition and includes items 1-4 listed below.

Requests for approval of sole source procurement must include:

1. Purpose of the sole source agreement
2. Dollar amount of the procurement
3. Justification for the sole source procurement
4. Copy of the cost and/or price analysis

Prior approval from DWD is not required if a particular subcontractor or specific equipment has already been identified in an existing grant agreement with DWD. However, DWD will examine the method of procurement prior to approval of the DWD grant award.

### Prior Approval for all Other Items of Cost:

The OMB Circulars identified below require prior approval for certain items of cost; however, some of the items listed below may only require prior approval under unusual circumstances. Grantees and contractors are responsible to ensure, for all items requiring prior approval, that the appropriate requests are submitted and approval granted prior to the procurement. See the applicable OMB Circular for your organization for a detailed explanation of these items. Uniform Administrative Requirements and OMB Circulars may be found on the Internet under <http://www.whitehouse.gov/OMB/circulars/>.

<u>OMB Circular</u>	<u>Section</u>	<u>Subject</u>
A-21	G 5. J 8(d)(1) 8(e) 11(d)	Negotiated fixed rates Compensation-Personal Services Compensation-Personal Services Defense/Prosecution-criminal/civil
actions	16(b)(1)(2)(3)	Equipment/Capital expense

	18	Fines/Penalties
	31	Preagreement costs
	35	Rearrangement/Alteration costs
	41 (a)	Costs of scholarship
	44	Specialized service facilities
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A-87	5	Other audit costs
	11 (g) (3)	Abnormal severance pay
	15 (e)	Depreciation method change
	19 (c)	Equipment/Capital expense
	25(b)(2)	Insurance/Indemnification
	30(d)	Membership/Subscription/Professional
	32	Pre-award costs
	34	Proposal costs
	36	Rearrangement/Alteration costs
	41(a)	Travel costs
A-110	23 (a) 6, 7, (g) 2	Cost sharing or matching
	25 (b), (c), (c) 1, (c) 6, (e) 1, (e) 4	Revision of budget and program plans
A-122	7(f)(3)(b)	Compensation-Personal Services
	7 (g)	Organization provided automobiles
	7(m)(1)	Compensation-Personal Services
	11(e)	Depreciation/Use allowance
	15(b)(c)(d)	Equipment/Capital expense
	16	Fines/Penalties
	19	Housing and personal living expense
	30 (d)	Membership/Subscription/Professional
	31	Organization costs
	32	Overtime, extra pay shift, multi-shift prem.
	34	Participant support costs
	38	Preaward costs
	41 (c)	Publication/Printing
	42	Rearrangement and alteration costs
	48	Selling and marketing
	49 (d), (e)	Severance pay
	53 (c), (g)	Training and cost of tuition
	55 (e)	Travel costs

Prior approval requests and any questions regarding this policy should be addressed to Bob Alyea, Grant Specialist, at 317-233-9331 or by sending an e-mail message to Bob at [ralyea@dwd.state.in.us](mailto:ralyea@dwd.state.in.us). If Bob is not available, requests may be directed to Virginia

Harrold, Supervisor of Grants and Contracts, at 317-232-7373 or at [vharrold@dwd.state.in.us](mailto:vharrold@dwd.state.in.us).

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**Effective Date:**

Immediately

**Ending Date:**

June 30, 2005

**Ownership:** DWD Administrative Services

**Action:**

Grantees are directed to implement the policy contained in this document.